

**Title of meeting:** Cabinet

**Date of meeting:** 25 July 2023

**Subject:** Ratification and update of the Waste Collection Policy

**Report by:** James Hill, Director of Housing, Neighbourhood and Building Services

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**Wards affected:** All

**Key decision:** Yes

**Full Council decision:** No

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**1. Purpose of report**

- 1.1. To update Cabinet on the proposed changes to the waste collection policy, arising from:
  - 1.1.1. The Environment Act 2021.
  - 1.1.2. Provision of additional recycling services - food waste collection; battery collection; carton & plastic recycling banks.
  - 1.1.3. Recycling contamination and the introduction of a charge for removal of contaminated recycling.
  - 1.1.4. Changes to bin provision policy for properties with limited space or no usable frontage to store bins on non-collection days.
  - 1.1.5. Change to waste presentation time.

**2. Recommendations**

- 2.1. That Cabinet approves the ratification and update of the Waste Collection Policy (Appendix 1), which includes;
  - 1) the changes related to the Environment Act 2021 and the provision of additional recycling
  - 2) the introduction of a charge to dispose of contaminated recycling as refuse.
  - 3) the update to the policy regarding the provision of waste receptacles to those properties with limited frontage to store waste receptables, while accounting for reasonable adjustments to those with protected characteristics.

4) the waste presentation time change to 6am.

2.2 That cabinet delegate further changes to the waste collection policy relating to the new Portsmouth City Council in-house waste collection service (starting on 01 April 2024) to the Director of Housing, Neighbourhoods and Buildings Services in consultation with the Cabinet Member for Environmental Services.

2.3 Cabinet note that further updates will be required to the Waste Collection Policy, once the government / DEFRA have clarified when the EPR/DRS will be introduced.

### **3. Background**

3.1. Under the terms of the Environmental Protection Act (EPA), 1990, Portsmouth City Council (the 'Council') is classed as a Waste Collection and Disposal Authority, and as such, under section 45 (1), has a statutory duty to collect household waste from all domestic properties in the city. Under Section 46(4) of the Act, the Council has specific powers to stipulate:

- The size and type of the collection receptacle(s);
- Where the receptacle(s) must be placed for the purpose of collecting and emptying;
- The materials or items which may or may not be placed within the receptacle(s);
- The time at which the receptacle(s) must be presented and removed.

3.2. Portsmouth City Council (PCC) operates a weekly refuse collection (with a weekly waste allowance) either via a black 140-litre wheeled bin or up to three (3) black bags per week, with fortnightly recycling services via a green 240-litre wheeled bin. PCC also provide a network of recycling bring bank sites for glass, textiles, mixed plastics and cartons. In addition, residents can take their domestic waste to the Household Waste Recycling Centre at Port Solent.

3.3. PCC are in a tri-partite partnership with Hampshire County Council and Southampton City Council for waste disposal. The tri-partite and Project Integra Authorities collectively agree the 'Joint Municipal Waste Strategy' (see background document list), and this was approved at a PCC Community Safety & Environment Portfolio Decision meeting on 1st December 2021.

3.4. In November 2021, the Environment Bill was passed into law and became the Environment Act 2021. This act will legislate changes in waste services, most notably:

- Mandatory separate food waste collections
- Consistent set of core materials be collected across England and Wales



3.5. In addition to the implementation of city-wide food waste collections which will be completed during the summer of 2023, the act also requires the introduction of further items to be collected as recycling at the kerbside as part of the consistent set of materials to be collected. In Portsmouth this means introducing pots, tubs & trays, glass, cartons, foil trays and flexible plastics collection at the kerbside. (see background documents - Recycling Infrastructure Update - February 2022)

3.6. An overview on the average contents of a refuse bin in Portsmouth can be found in Appendix 2. Percentages are based on the weight of material, rather than the volume of these materials, within a bin.

3.7. The current waste collection policy is dated the 2018 and needs to be updated in light of the changes since it was last published, and the proposed changes set out in this report. The proposed waste collection policy is in Appendix 1.

#### **4. Changes to the Waste Collection Policy**

##### **4.1. Charges for collection of contaminated recycling**

4.1.1. Contaminated recycling creates additional pressure on the disposal budget. In 2021/22, 8,882 tonnes of recycling were delivered to the Materials Recycling Facility (MRF), of that, 1,572 tonnes were rejected (17.7%). The approximate cost of processing and disposing of this contamination is an additional £150,000 to the Council.

4.1.2. To try and tackle the cost impact of contamination, the Waste Management Team have taken the following actions:

- Contamination checks and resident engagement - feedback cards to residents presenting contamination in their recycling.
- Red hangers - attached to bins where contamination means the recycling cannot be collected.
- Collection crew engagement - ensuring recycling crews are aware of the need to reject heavily contaminated recycling bins.
- Development of a social media campaign.
- Online A-Z guide detailing where materials should be recycled or disposed.
- Improved bin stickers.
- Student engagement programme.

4.1.3. Currently, if a resident's recycling bin is rejected and not emptied, they contact PCC and a Waste Management Officer will attend the property to educate and go through the recycling bin and remove contaminants in order for the resident to start afresh. If the bin is very heavily contaminated this is passed to the refuse collection crew to empty on their next visit.

4.1.4. Rejected communal recycling bins are emptied by the refuse collection crew.

- 4.1.5. From the beginning of 2018 to the end of June 2023, there were 1,778 incidents where requests were made to our waste collection contractor to empty recycling as refuse. Of these, 288 properties had multiple requests ranging from 2 to 26 visits for emptying recycling as refuse.
- 4.1.6. When recycling is removed as refuse by the waste contractor, good quality recycling is lost which impacts costs and the environmental benefits associated with recycling.
- 4.1.7. From the beginning of 2018 to the end of June 2023, Waste Management Officers made 3,095 visits due to contaminated recycling. These visits also included education and provision of recycling resources.
- 4.1.8. In the same time period, 307 properties were visited multiple times ranging from two to eight visits for contaminated recycling. This equated to 701 separate visits.

## **4.2 Outline of changes**

- 4.2.1 The proposed change introduces a charge to households and communal properties to empty contaminated recycling bins from 01 September 2023.
- 4.2.2 Waste Management Officers will continue to attend where contaminated bins are reported for the first time.
- 4.2.3 Charges will only apply where a household/landlord/managing agent requests a contaminated bin is emptied, and only where previous actions of remediation has failed.
- 4.2.4 Charges would be made on a sliding scale, depending on the size and number of recycling (see Appendix 3.)
- 4.2.5 There are other Councils who charge for emptying contaminated recycling bins, detailed in Appendix 4, and these charges cover the costs incurred (contamination charges, loss of income, contractor costs, administration)

## **4.3 Withdrawing the option for residents to obtain a wheeled refuse or recycling bin greater than 180litres and an updated process for bin removal if bins are left out on non-collection days**

### **4.3.1 Outline of changes**

- 4.3.2. From 01 September 2023, the Council will no longer supply wheeled refuse and recycling bins greater than 180L capacity to flat-fronted properties due to them being too wide to easily take through properties for storage in back gardens.

- 4.3.3. Additionally, the bin removal process will be amended for those households that leave refuse bins out on the pavement in contravention of section 4 of the waste collection policy. In this circumstance the households will be issued a warning letter if refuse and/or recycling bins are kept on the highway on non-collection days. The letter will ask that the receptacles are removed from the highway and only presented after 7pm the evening before the day of collection and removed as soon as possible after collection has taken place. The letter will also detail consequences of not adhering to the policy. If the household continues to store refuse receptacles on the highway on non-collection days, the refuse receptacle(s) will be removed.
- 4.3.4. If a household fails to keep their recycling receptacle(s) and/or food waste caddies off the highway on non-collection days, the Council will provide a smaller container if possible (e.g., slimmer recycling bin, caddies or boxes). If this does not resolve the issue, the Enforcement Team reserves the right to use their powers of Section 46(A) EPA 1990.
- 4.3.5 There may be instances, due to disability or health issues, where the resident may be authorised to leave their refuse bin (or recycling bin) on the highway. This will be reviewed on a case-by-case basis and will take into account how this may affect other pavement users.

#### **4.4. Changing waste presentation time from 7am to 6am**

##### **4.4.1. Outline of Change**

- 4.4.2. From 01 September 2023 residents will be asked to present their waste from 6am and no earlier than 7pm the evening prior to collection, instead of the current 7am arrangement. This will allow the Council to adjust the start times of collections when necessary, e.g., poor weather and extreme heat, or when catching up from incomplete rounds. It is not the intention to start collections earlier than 06:45am on a typical day.
- 4.4.3. This means that if a resident does not present their waste at 6am and the collection crew have serviced the road, any reported missed bin collections will not be rectified.

## **5 Reasons for Recommendations**

### **Contamination Changes**

- 5.1 Enforcement action cannot be taken when a household contaminates their recycling bin, however, emptying of a contaminated recycling bin can be classed as an additional service and charges incurred by the Council compensated. Furthermore, the resident can choose to resolve the contamination themselves to avoid any charge. Households have these options to resolve contaminated recycling free of charge:

- Remove contamination and place in refuse receptacle for collection.
- Emptying receptacle and taking additional waste to the Household Waste Recycling Centre.
- taking additional cardboard and metals to the Portsmouth Household Waste Recycling Centre or place additional recycling in a cardboard box (one can be requested from PCC), next to the recycling container, on the next scheduled recycling day.

5.1.1 Where properties use communal bins, the landlord or managing agent has a responsibility for waste management. This includes ensuring the correct waste types are presented in the correct bins. If a recycling bin is not collected due to contamination, the landlord or managing agent can remove contamination themselves and await the next scheduled collection day for collection or incur the charge for an additional refuse collection.

5.1.2 If the household does not resolve their contaminated recycling bin and place recyclables into the refuse, the Council has the power, under Section 46(A) of the Environmental Protection Act, 1990, to take enforcement action on those properties producing excess refuse and placing recyclable items into their refuse receptacles.

5.1.3 The Council charge would be less than the cost the household would need to pay for a fixed penalty notice if enforcement action is undertaken, currently £60 plus justifiable costs under a Notice of Intent - Section 46a of the Environmental Protection Act 1990, as amended by the Deregulation Act 2015, section 58.

5.1.4 By introducing this charge, it will push the responsibility of correct waste presentation and management back onto the household/landlord/managing agent.

## **5.2 Changes to wheeled bin provisions for properties with no usable frontage for storage**

5.2.1 When wheeled refuse bins were introduced in 2019, residents in flat-fronted properties or properties with no usable frontage to store waste receptacles could request a wheeled bin for refuse if they agreed to keep it off the highway on non-collection day.

5.2.2 Waste receptacles on the highway on non-collection days can cause a nuisance for other users, lessen the clearance space for wheelchair and pushchairs, and creates unnecessary dangers for the visually impaired.

5.2.3 Flat-fronted properties make up around 11.5% of all properties in the City.

5.2.4 Since the introduction of wheeled bins, approximately 28% of flat-fronted properties have been issued with a wheeled bin for refuse. This equates to just under 3,000 properties.



- 5.2.5 From 7 December 2021 to 6 June 2022, there were 739 requests or Community Wardens to visit properties whereby waste receptacles have been left on the highway on non-collection days. Of this total, 439 (59.4%) was resolved on the doorstep with the resident and in 58 cases (7.9%) bins were removed from the property. Of the total, 242 (32.7%) cases were still ongoing.
- 5.2.6 If a property is found to have their **recycling** bin on the highway on non-collection day, they are offered an alternative receptacle, such as a box (or boxes), stackable recycling caddies, or a smaller wheeled bin to make it easier for residents to move the recycling from within the home to the highway for collection.
- 5.2.7 As residents must present their **recycling** in a waste receptacle, the Council will support the resident in the first instance to recycle and is reluctant to remove the receptacle, inhibiting the household's ability to recycle. For recycling receptacles, if guidance and support does not prevent the resident from keeping their receptacle on the highway on non-collection day, the next step would be to start enforcement action.
- 5.2.8 Residents have an alternative option to present their **refuse** in black bags for collection. It is therefore possible to remove a refuse wheeled bin.
- 5.2.9 Whilst there is potential for black sacks to be attacked by pests, the introduction of food waste collections and caddies mitigate against potential attacks. Properties on a kerbside collection now receive a food waste collection service, including all flat fronted properties. Food waste caddies are secure from animal attack when compared to black sacks containing food waste.
- 5.2.10 Reasonable adjustments will be made for those residents who are unable to move waste receptacles from within the home to the highway for presentation.

### **5.3 Changes to waste presentation time**

- 5.3.1 Throughout the year, there are occasions where collections rounds need to start earlier to allow for extreme weather events occurring in the city. The recent examples of this were the heat health alerts in July 2022, August 2022 and June 2023 when collections rounds started at 6am to help crews complete rounds ahead of the hottest period of the day. When changes need to occur at short notice, the Council notifies residents through the webpage, social media posts and email bulletins. However, these do not reach all residents, and this can lead to waste collections being missed.
- 5.3.2 By changing the presentation time to 6am, it gives the Council more flexibility in starting earlier when necessary, without having to notify residents on each occasion.
- 5.3.3 Neighbouring authorities with presentation times earlier than 7am:





- Southampton City Council - 6:30am
- Fareham Borough Council - 6am
- East Hampshire District Council - 6am
- New Forest District Council - 6am
- Eastleigh Borough Council - 6:30am

## **6 Integrated Impact Assessment**

6.1 There are some impacts identified in the IIA (Appendix 5) however, there will be assurances in place to ensure those impacts are mitigated against.

## **7 Legal Implications**

7.1 As stated in paragraph 3.1 of the report under the terms of the Environmental Protection Act, 1990, Portsmouth City Council (the 'Council') is classed as a Waste Collection and Disposal Authority, and as such, under section 45(1) of that Act, has a statutory duty to collect household waste from all domestic properties in the city.

7.2 Under section 45A of the Act, recyclable household waste must be collected separately from other household waste.

7.3 Under Section 46(4) of the Act, the Council has specific powers to stipulate by notice given to the occupier of premises the Council's requirements in relation to the placing of household waste for collection, including:

- the size, type and number of the collection receptacle(s);
- Where the receptacle(s) must be placed for the purpose of collecting and emptying;
- the placing of receptacles on highways
- the materials or items which may or may not be placed within the receptacle(s).
- the time when receptacles must be placed for the purpose of emptying them and when they must be removed.

7.4 The policy outlines the basis upon which enforcement of the Council's stipulated requirements can be dealt with. The requirements of the Council described in this report and in the attached policy are considered to be reasonable and unlikely to be vulnerable to legal challenge or review.

7.5 As regards the placing of waste receptacles on the highway (which includes any pavement or footway which is part of the highway) the Council is the highway authority for its area and as such has both duties and powers under Part IX of the Highways Act 1980 in relation to the protection of the rights of the public to the use and enjoyment of any highway for which it is the highway authority. Such protection includes prevention, as far as possible, of obstruction of the highway.

7.6 In relation to the proposed charges for collection of contaminated recycling waste it is to be noted that under section 46(11) of the Act the Council has no duty to





collect household waste which is placed for collection in contravention of its requirements in relation to the placing and use of waste receptacles. Accordingly, where a request for the collection of contaminated recycling waste is made a charge may be made which is sufficient to cover the Council's collection costs.

7.7 The policy further outlines what steps can be taken to assist those who have a protected characteristic under the Equality Act 2010 (principally disability, age or medical need) to comply by way of making reasonable adjustments and reviewing on a case-by-case basis.

**8 Director of Finance's comments**

8.1 The Waste Collection service has a net budget allocated within the Climate Change and Environment Portfolio cash limit. The costs of waste collection, under the revised policy set out in this report, will be met from this budget. The introduction of a charge to dispose of contaminated recycling as refuse will reimburse the service for additional costs incurred and provide an incentive to encourage correct waste presentation and management.

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Signed by: James Hill - Director for Housing, Neighbourhood and Building Services

**Appendices:**

- Appendix 1: Waste Collection Policy
- Appendix 2: What's in a black bin?
- Appendix 3: Charges to empty contaminated recycling as refuse
- Appendix 4: Council charges
- Appendix 5: IIA

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Joint Municipal Waste Management Strategy - December 2021	<a href="#">Joint Municipal Waste Management Strategy</a>
Recycling Infrastructure Update - February 2023	<a href="#">Recycling infrastructure update report - decision final.pdf (portsmouth.gov.uk)</a>

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....  
Signed by: